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EXAMINER

AKLILU, KIRUBEL

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,620

Applicant(s)

HARRIS ET AL.

Examiner

Kirubel Aklilu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-18 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-18 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The Applicant's amendments to the Title, Specification and Drawings are deemed acceptable by the examiner.

Response to Arguments

Applicant's arguments filed 3/22/05 have been fully considered but they are not persuasive.

With respect to the Darbee reference, the Applicants argue "As the Darbee remote control is configured to transfer data to a personal computer and/or a set-top converter box, and is not configured to transfer data to the content provider or host system on the internet, the Darbee remote control is not web-enabled," and certainly is not configured to transfer said event data for each said media event to said control station via a network connection, as cited in amended claim 1. For at least this reason, Darbee fails to anticipate amended claim 1." The examiner respectfully disagrees. Darbee does indeed teach an embodiment wherein the remote control is web-enabled. See Darbee et al. col. 4 lines 19-32 "Those skilled in the art also will appreciate that, while cable, satellite, or broadcast television signals generally will provide the source for transporting information to the remote control (using, for example, receiving circuitry in the set-top

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box or the television itself, along with an IR or RF wireless link to the remote control), those broadcast signals need not provide in all instances the signal source for the remote control. For example, in some embodiments of the present invention, traditional broadcast sources such as cable, satellite and network broadcast channels may be bypassed and alternative data links to the remote control may be provided. Such links may include, for example, paging networks, FM SCA data links, modem links and/or other data links, **including wireless and non-wireless links to the Internet.**" As the recited passage clearly shows, Darbee does indeed teach the remote control to be "web-enabled" for the simple fact that information can be sent to the remote control using wireless and non-wireless links to the Internet. In addition, the examiner has also cited a pertinent reference by Allport (U.S. Patent # 6,104,334) that teaches a portable internet-enabled controller and information browser (such as Electronic Program Guides) for consumer devices (such as television system) that can easily be used to modify the remote control of Darbee to meet the limitations of Applicant's Claim.

The Applicant also argues "Independent claims 10 and 18 have been amended to recite similar limitations as those of claim 1 distinguished from Darbee above. Therefore, for at least the same reasons that Darbee fails to anticipate amended claim 1, Darbee also fails to anticipate claims 10 and 18. Alexander fails to make up for the deficiencies of Darbee . . . As the Alexander television, and not the Alexander remote control, is configured to communicate with the Internet, Alexander fails to describe a remote control that is network enabled" and certainly fails to describe a remote control that is

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configured to transfer said event data for a media event to a control station via a network communication link" as recited in each of amended claims 10 and 18. For at least this reason, Alexander fails to make up for the deficiencies of Darbee. Therefore, Darbee and Alexander fail to anticipate either amended claim 10 or amended claim 18." The examiner respectfully disagrees. As described above, Darbee by itself teaches the remote control to be "web enabled" therefore, the examiner is not relying on the teachings of Alexander for the limitation of a "web enabled" remote control, as argued by the Applicant.

In view of the above, the Examiner believes that the broadest interpretation of the presented claimed invention does in fact read on the cited reference for at least the reasons discussed above and as stated in the detail Office Action as follows. This Office action is now made final.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims **10** and **18** are rejected under 35 U.S.C. 102(e) as being anticipated by Darbee et al (US Patent # 6,130,726).

1. As for **Claim 10**, Darbee et al. teach a method of using a passive media content access system having an electronic system with a communication device and an input device (see fig. 1 remote control, keypad 14 is interpreted to be the input device, fig. 2 shows the electronic system of said remote control which is also interpreted to be a communication device), wherein said communication device is in communication with a control station (see col. 10 lines 24-29 "It is also possible for the software application running on the remote control selection history data . . .to be **transmitted** to an associated set-top converter box and on to a given content provider or host system"), said method comprising the steps of:

changing a device setting relating to a media event (see Darbee et al. col. 6 line 62 – col. 7 line 2, "a second set of hot-keys for activating and controlling set-top or cable box features is also provided. Such keys may include, for example, an information, Info, key for accessing content broadcast by a local cable company, a Menu key for accessing a television or cable host menu, and a Guide key for accessing programming guide information broadcast by a cable company or other host network." Activating or controlling a set-top-box to access content broadcasted by a local cable company is interpreted to be changing a device setting relating to a media event);

logging an event data within said electronic system, wherein said event data is comprised of a current date, a current time, a current device, and/or a current channel that is associated with a media event by a user at substantially the time of said logging of said event data (see Darbee col. 10 lines 20-23 "In embodiments where the remote control unit **10** is used in conjunction with a personal computer or web computer, the

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data stored may also include an internet address or URL designation stamp". And also see Darbee col. 10 lines 18-20 "The data stored may include for example, a date stamp, time stamp and/or channel identification data." It is interpreted that the event data stored is consumed at substantially by a user at substantially the time of said logging of said event data);

transferring said event data to said control station from said communication device, which is network enabled, via a network communication link (see Darbee et al. col. 10 lines 24-29 "It is also possible for the software application running on the remote control unit 10 to cause, for example, stored program or content selection history data and, if desired, serial number, address or user identification data, to be transmitted to an associated set-top converter box and on to a given content provider or host system." And col. 4 lines 26-33 "in some embodiments of the present invention, traditional broadcast sources such as cable, satellite and network broadcast channels may be bypassed and alternative data links to the remote control may be provided. Such links may include, for example, paging networks, FM SCA data links, modem links and/or other data links, including wireless and non-wireless links to the Internet." It is interpreted that the event data is transmitted from a remote control that is web enabled, to an associated set-top converter box, and eventually from the set-top-box to the host system using any form of network connection. This network connection, as the claim is written, does not have to be a direct Internet connection between the remote control and the host system.);

determining an identity of said media event from said event data (see Darbee col. 10 lines 20-23 "In embodiments where the remote control unit **10** is used in conjunction with a personal computer or web computer, the data stored may also include an internet address or URL designation stamp". And also see Darbee col. 10 lines 18-20 "The data stored may include for example, a date stamp, time stamp and/or channel identification data." It is interpreted that the event data stored is used to identify said media event data);

determining whether information is available regarding said media event (see Darbee col. 10 lines 38-43. "the serial number, address and/or user information maintained within the memory of the remote control unit 10 may be used to filter and/or parse data, including programming information, advertising or other content . . ."); and

providing said available information to said user (see col. 10 lines 32-38 "once data indicative of the particular viewing habits, content selection characteristics or interests of a particular remote control user is transmitted to the host, the host system may tailor additional programming, advertising, or other content to be provided to the remote control unit 10").

2. As for **Claim 18**, Alexander et al. teach a method of using a passive media content access system having an electronic system with a communication device and an input device (see fig. 1 remote control, keypad 14 is interpreted to be the input device, fig. 2 shows the electronic system of said remote control which is also interpreted to be a communication device), wherein said communication device is configured to

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communicate with a control station (see col. 10 lines 24-29 "It is also possible for the software application running on the remote control selection history data . . .to be **transmitted** to an associated set-top converter box and on to a given content provider or host system"),), said method comprising the steps of:

programming a current date, a current time, a current device, and a current channel for a media event into said electronic system (see Darbee col. 10 lines 20-23 "In embodiments where the remote control unit **10** is used in conjunction with a personal computer or web computer, the data stored may also include an internet address or URL designation stamp". And also see Darbee col. 10 lines 18-20 "The data stored may include for example, a date stamp, time stamp and/or channel identification data.");

changing a device setting of at least one electronic device for consumption of another media event (see Darbee et al. col. 6 line 62 – col. 7 line 2, "a second set of hot-keys for activating and controlling set-top or cable box features is also provided. Such keys may include, for example, an information, Info, key for accessing content broadcast by a local cable company, a Menu key for accessing a television or cable host menu, and a Guide key for accessing programming guide information broadcast by a cable company or other host network." Activating or controlling a set-top-box to access content broadcasted by a local cable company is interpreted to be changing a device setting for consumption of a media event)

logging an event data within said electronic system, wherein said event data is comprised of a current date, a current time, a current device, and/or a current channel that is associated with said other media event (see Darbee col. 10 lines 20-23 "In

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embodiments where the remote control unit **10** is used in conjunction with a personal computer or web computer, the data stored may also include an internet address or URL designation stamp". And also see Darbee col. 10 lines 18-20 "The data stored may include for example, a date stamp, time stamp and/or channel identification data.");

transferring said event data to said control station from said communication device, which is network enabled, via a network communication link (see Darbee et al. col. 10 lines 24-29 "It is also possible for the software application running on the remote control unit 10 to cause, for example, stored program or content selection history data and, if desired, serial number, address or user identification data, to be transmitted to an associated set-top converter box and on to a given content provider or host system." And col. 4 lines 26-33 "in some embodiments of the present invention, traditional broadcast sources such as cable, satellite and network broadcast channels may be bypassed and alternative data links to the remote control may be provided. Such links may include, for example, paging networks, FM SCA data links, modem links and/or other data links, including wireless and non-wireless links to the Internet." It is interpreted that the event data is transmitted from a remote control that is web enabled, to an associated set-top converter box, and eventually from the set-top-box to the host system using any form of network connection. This network connection, as the claim is written, does not have to be a direct Internet connection between the remote control and the host system.);

determining an identity of said media event from said event data (see Darbee col. 10 lines 20-23 "In embodiments where the remote control unit **10** is used in conjunction

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with a personal computer or web computer, the data stored may also include an internet address or URL designation stamp". And also see Darbee col. 10 lines 18-20 "The data stored may include for example, a date stamp, time stamp and/or channel identification data." It is interpreted that the event data stored is used to identify said media event data);

determining whether information is available regarding said media event (see Darbee col. 10 lines 38-43. "the serial number, address and/or user information maintained within the memory of the remote control unit 10 may be used to filter and/or parse data, including programming information, advertising or other content . . ."); and providing said available information to said user (see col. 10 lines 32-38 "once data indicative of the particular viewing habits, content selection characteristics or interests of a particular remote control user is transmitted to the host, the host system may tailor additional programming, advertising, or other content to be provided to the remote control unit 10").

Claim Rejections - 35 USC § 103

Claims **1-9, 13-17, and 21-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al. (U.S. Patent # 6,130,726) in view of Allport (U.S. Patent # 6,104,334), in further view of Alexander et al. (U.S. Patent # 6,177,931)

3. As for **Claim 1**, Darbee et al. teach a passive media content access system, comprising:

a housing (see Fig. 1, col. 6 lines 53-58, Abstract "The remote control device may comprise a housing . . .");

an electronic system disposed in said housing (see col. 2 lines 51-55 ". . . a remote control unit that is provided with a bidirectional communication capability and with intelligence for monitoring program selection data entered into the unit by a user") and configured to store event data relating to a plurality of media events, wherein said event data for each media event includes information for a current time, a current date, a current device, and/or a current channel associated with said media event (see col. 10 lines 18-20 "The data stored may include for example, a date stamp, time stamp and/or channel identification data.); and

a communication device disposed in said housing and electronically coupled to said electronic system (see col. 10 lines 29-32 "Alternatively, such an information transfer might be effected using an IR or RF link to a personal computer using a more conventional modem port."),

Darbee et al. teach said communication device disposed in said housing and electronically coupled to said electronic system, said communication device being web enabled (see Darbee et al. col. 4 lines 26-32 "For example, in some embodiments of the present invention, traditional broadcast sources such as cable, satellite and network broadcast channels may be bypassed and alternative data links to the remote control may be provided. Such links may include, for example, paging networks, FM SCA data

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links, modem links and/or other data links, **including wireless and non-wireless links to the Internet.**") and configured to transfer said event data for each said media event to a control station via a network communication (see Darbee et al. col. 10 lines 24-29 "It is also possible for the software application running on the remote control unit 10 to cause, for example, stored program or content selection history data and, if desired, serial number, address or user identification data, to be transmitted to an associated set-top converter box and on to a given content provider or host system." It is interpreted that the event data is transmitted from a remote control that is web enabled, to an associated set-top converter box, and eventually from the set-top-box to the host system using any form of network connection. This network connection, as the claim is written, does not have to be a direct Internet connection between the remote control and the host system.).

Darbee et al. teach said control station is configured to analyze said event data for at least one user behavior pattern, (see Darbee et al. col. 10 lines 32-43 "once data indicative of the particular viewing habits, content selection characteristics or interests of a particular remote control user or group of users is transmitted to the content provider or host system, the content provider or host system may tailor additional programming, advertising or other content to be provided to the remote control unit 10."). Darbee et al. do not expressly teach said control station provide predictive information, which is based on said user behavior pattern, to said electronic system via said network connection with said communication device for automatic control of one or more user electronic systems by said electronic system. However, in the same field of endeavor,

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Alexander et al. teach monitoring and analyzing a user behavior such as channels watched, and using this information to automatically configure a television system to automatically tune to a particular channel or record a particular program from a particular channel. (see Alexander col. 9 line 65 to col. 10 line 12 "The EPG provides the viewer with the opportunity to select program titles, scheduled for delivery at future times, to watch. By selecting program titles, the viewer builds a "watch list" . . . Instead of automatically recording the program selected, the **Watch Function automatically turns the television on, if it is not already on, and automatically tunes the television to the channel scheduled to deliver the designated program, if the television is not already tuned to that channel.**"). User profile can be created by passively monitoring the user interaction with the Electronic Program guide such as changing channels or changing volume setting of the television set (see Alexander col. 28 lines 30-52 "**when the viewer changes channels, the EPG records, among other things, information about the first channel, the changed-to-channel, the time that the change was made, the identification of the programming . . .**") and this user profile can be used in creating the "Watch list" (see col. 31 lines 25-33 "At the viewer's option, the EPG and Profile program use the basic viewer profile data, **the simple statistics collected about a particular viewer . . .to populate the Record List and/or the Watch List . . .**"). In view of the teaching of Alexander, it would have been obvious to one of ordinary skill in the art at the time this invention was made to modify the teaching of Darbee to automatically control one or more user electronic systems based on observed user behavior. One of ordinary skill would have been motivated to do this

to provide the viewer with the opportunity to watch or record a program of special interest at the scheduled time even if the viewer has forgotten about the scheduled delivery (see Alexander col. 10 lines 7-10 "This feature provides the viewer with the opportunity to watch a program of special interest at the scheduled time even if the viewer has forgotten about the scheduled delivery.").

4. As for **Claim 2**, Darbee et al. teach an input device configured to accept user input for controlling said electronic system and said one or more user electronic systems, wherein said electronic system is configured to store the event data based on said user input. See col. 2 lines 51-55 ". . . a remote control unit that is provided with a bidirectional communication capability and with intelligence for monitoring program selection data entered into the unit by a user". And see col. 10 lines 18-20 "The data stored may include for example, a date stamp, time stamp and/or channel identification data. The remote control is interpreted to be the input device that receives user input via a keypad (see fig. 1 keyboard 15) that for controlling the electronic system within the remote control and in turn control a television, wherein the user behavior is monitored and stored.

5. As for **Claim 3**, Darbee et al. teach said input device includes a display. See Fig. 1 unit 14 Display. Col. 6 lines 52-54 ". . . the remote control device **10** may include on a top panel **12** therefor a LCD visual display **14** . . ."

6. As for **Claim 4**, Darbee et al. teach said electronic system is capable of receiving user preference data relating to personal preferences. See Darbee et al. col. 3 lines 58-64 “ . . .it may be an object for the remote control to store only a subset of available program guide and/or advertising information. The subset can be limited for example, to specific channels, specific areas of interest, specific genres of programming, or specific times.”

7. As for **Claim 5**, Darbee et al. teach said control station is configured to communicate with a plurality of programming stations via the network connection for receiving said predictive information. See Darbee et al. col. 10 lines 32-43 “once data indicative of the particular viewing habits, content selection characteristics or interests of a particular remote control user or group of users is transmitted to the content provider or host system, the content provider or host system may tailor additional programming, advertising or other content to be provided to the remote control unit 10.” The tailored programs are interpreted to be predictive information.

8. As for **Claim 6**, Darbee et al. teach said control station is configured to compare said event data to said media event information to determine a type of information to send to said user. See Darbee et al. col. 10 lines 32-43 “once data indicative of the particular viewing habits, content selection characteristics or interests of a particular remote control user or group of users is transmitted to the content provider or host system, the content provider or host system may tailor additional programming, advertising or other

content to be provided to the remote control unit 10.” The tailored programs are interpreted to be a type of information.

9. As for **Claim 7**, the modified Darbee et al. in view of Alexander et al. teaches said control station is programmable by said user to include information for said personal preferences. See Alexander et al. see col. 31 lines 25-33 “**At the viewer’s option**, the EPG and Profile program use the basic viewer profile data, the simple statistics collected about a particular viewer . . .to populate the Record List and/or the Watch List . . .” The fact that the user has the option to have the EPG and Profile program use the viewer profile to populate the Record and/or Watch list is interpreted to be the user programming the control station (the system that analyzes the viewer habit, which can be located the at the system headend, is interpreted to be the control station. see Alexander et al. col. 28 lines 14-21 “The viewer profile information (data collected concerning, and surrounding, a viewer's interaction with the television, the EPG (including the recording and watching functions), the Internet, the World Wide Web, and any other sources of information external to the EPG, but through which the viewer interact)) can be sent to a computer at the head end of television distribution for analysis”)

10. As for **Claim 8**, Darbee et al. teach said personal preferences include information related to said media event. See col. 3 lines 58-64 “. . . it may be an object for the

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remote control to store only a subset of available program guide and/or advertising information. The subset can be limited to specific channels, specific areas of user interests, specific genres of programming, or specific times"). The specific channels, specific areas of user interests, specific times are interpreted to be information related to said media event, which are part of the personal preference.

11. As for **Claim 9**, Darbee et al. teach said communication device is configured to communicate with said control station via a network. See Darbee et al. col. 4 lines 26-32 "In some embodiments of the present invention, traditional broadcast sources such as cable, satellite and network broadcast channels may be bypassed and alternative data links to the remote control may be provided. Such links may include, for example, paging networks, FM SCA data links, modem links and/or other data links, including wireless and non-wireless links to the Internet."

12. As for **Claim 13**, Darbee et al. teach the step of providing includes transferring said available information to said communication device via said web communication link. (see col. 10 lines 32-38 "once data indicative of the particular viewing habits, content selection characteristics or interests of a particular remote control user is transmitted to the host, the host system may tailor additional programming, advertising, or other content to be provided to the remote control unit 10" And col. 4 lines 26-33 "in some embodiments of the present invention, traditional broadcast sources such as cable, satellite and network broadcast channels may be bypassed and alternative data links to

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the remote control may be provided. Such links may include, for example, paging networks, FM SCA data links, modem links and/or other data links, including wireless and non-wireless links to the Internet.” It is interpreted that a web communication link is used to transfer said available information to said communication device in an embodiment where traditional broadcast sources such as cable, satellite are bypassed and wireless or wire-line links such as the Internet are used.)

13. As for **Claim 14**, Darbee et al. do not expressly teach the step of providing includes sending an e-mail containing said available information to a computer that is associated with said user. Darbee does however teach that “. . . traditional broadcast sources such as cable, satellite and network broadcast channels may be bypassed and alternative data links to the remote control may be provided . . . such as wireless and non-wireless links to the internet” (see col. 4 lines 26-32). It is well known in the art that e-mail is a prominent means of sending information when Internet communication is available. Email is an attractive means of communication because the recipient has the option of accessing the email message at his/her convenient time. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Darbee’s teaching to send an email containing said available information to a computer that is associated with a user to be of an e-mail format. One would have been motivated to send email containing available information to a user when Internet access was available between the remote control unit and its associated personal computer (see col. 10 lines 20-22 “In embodiments where the remote control unit 10 is used in

conjunction with a personal computer or web computer . . ."). The host system and the user can access the email message at a time that is convenient to him/her.

14. As for **Claim 15**, Darbee et al. teach providing available information depending upon predefined user preferences. See col. 10 lines 32-38 "once data indicative of the particular viewing habits, content selection characteristics . . .is transmitted to the content provider or host system . . . host system may tailor additional programming, advertising or other content to be provided to the remote control unit 10."

15. As for **Claim 16**, Darbee et al. do not expressly teach determining at least one favorite media event based on said event data; and setting a reminder for said at least one favorite media event to alert a user of said at least one favorite media event. However, in the same field of endeavor, Alexander et al. teach monitoring a user watching behavior and predicating favorite media events and setting a reminder for a user to alert a user of said favorite media event. See Alexander col. 28 lines 30-52 **"when the viewer changes channels, the EPG records, among other things, information about the first channel, the changed-to-channel, the time that the change was made, the identification of the programming . . .")** and this user profile can be used in creating the "Watch list" (see col. 31 lines 25-33 "At the viewer's option, the EPG and Profile program use the basic viewer profile data, **the simple statistics collected about a particular viewer . . .to populate the Record List and/or the Watch List . . ."** and

setting a reminder for said at least one favorite media event to alert a user of said at least one favorite media event. See Alexander col. 9 line 65 to col. 10 line 12 "The EPG provides the viewer with the opportunity to select program titles, scheduled for delivery at future times, to watch. By selecting program titles, the viewer builds a "watch list" . . . Instead of automatically recording the program selected, the **Watch Function automatically turns the television on, if it is not already on, and automatically tunes the television to the channel scheduled to deliver the designated program, if the television is not already tuned to that channel.**" ."). In view of the teaching of Alexander, it would have been obvious to one of ordinary skill in the art at the time this invention was made to modify the teaching of Darbee to automatically control one or more user electronic systems based on observed user behavior. One of ordinary skill would have been motivated to do this to provide the viewer with the opportunity to watch or record a program of special interest at the scheduled time even if the viewer has forgotten about the scheduled delivery (see Alexander col. 10 lines 7-10 "This feature provides the viewer with the opportunity to watch a program of special interest at the scheduled time even if the viewer has forgotten about the scheduled delivery.").

16. As for **Claim 17**, the modified Darbee et al. in view of Alexander et al. teach:

determining at least one favorite media event based on said event data (See Alexander col. 28 lines 30-52 "**when the viewer changes channels, the EPG records, among other things, information about the first channel, the changed-to-channel, the time that the change was made, the identification of the programming . . .**")

and this user profile can be used in creating the "Watch list" (see col. 31 lines 25-33 "At the viewer's option, the EPG and Profile program use the basic viewer profile data, **the simple statistics collected about a particular viewer . . .to populate the Record List and/or the Watch List . . .**");

determining whether proper device states are in effect for at least one external electronic device for consumption of said at least one favorite media event; and if said proper device state are not in effect, switching said at least one external electronic device to a proper device state for consumption of said at least one favorite media event. (See Alexander et al. col. 14 lines 59-67 "Another example would be to notify the viewer that a program that may be of interest (e.g., as determined from analyzing the Viewer's Profile) will be broadcast on another channel within a certain amount of time, e.g., 2 minutes. The EPG could then ask if the viewer wants to view the program on the other channel. If the viewer indicates that the viewer wants to watch the program on the other channel, then the EPG will automatically tune to the other channel at the appropriate time. Alternatively, the EPG could ask the viewer is the viewer wants to record the program on the other channel and could then record that program at the appropriate time if the viewer answers affirmatively.")

17. As for **Claim 21**, the modified Darbee et al. in view of Alexander et al. teaches said event data includes a length of time one or more of said media events is consumed by a user. See Alexander et al. col. 28 lines 58-60 "The EPG also records information when there is an absence of interaction between the viewer and the television or the EPG.

For instance, the EPG will record whether a viewer continues to view an advertisement rather than changing channels. The EPG calculates and records the entire duration of the time that the television is on in any particular day.”

18. As for **Claim 22**, the modified Darbee et al. in view of Alexander et al. teaches said event data includes a number of times the user has consumed select media events of a select media event type. See Alexander et al. col. 28 lines 30-40 “**Every time** the viewer interacts with the EPG or the television, the EPG records the viewer’s actions and the circumstances surrounding those actions. For instance, when the viewer changes channels, the EPG records, among other things, information about the first channel, the changed-to channel, the time that the change was made, the identification of the programming that was displayed on the first channel”. Since the systems records the viewer interactions, such as the channel the user was watching before changing the channel EVERYTIME, it is interpreted that inherently the number of times a user has consumed a particular media event (in this case, the particular channel) is included in the stored media event data. Also see Alexander et al. col. 29 lines 37-45 “The Profile Program accumulates, among other things, the number of times that the viewer: interacted with the EPG during a particular viewing session; performed particular types of interactions with the EPG; watched a particular channel; interacted with the Internet during a particular viewing session, interacted with a particular website”

19. As for **Claim 23**, the modified Darbee et al. in view of Alexander et al. teaches if said number is greater than or equal to a threshold number, said electronic system and/or said control system is configured recognize a user behavior pattern for said event data. See Alexander et al. col. 29 lines 37-60 "The Profile Program accumulates, among other things, the number of times that the viewer: interacted with the EPG during a particular viewing session; performed particular types of interactions with the EPG; watched a particular channel; interacted with the Internet during a particular viewing session, interacted with a particular website . . . Using the basic viewer profile data and the simple statistics collected about a particular viewer, the Profile Program "learns" to recognize a finer breakdown about the various types of data collected and then uses the learned information to describe a "Viewer Preference." It is interpreted that the viewer profile analysis program inherently uses a threshold number in calculating the viewer preference data.

20. As for **Claim 24**, the modified Darbee et al. in view of Alexander et al. teach if said user behavior pattern is recognized, said predictive information is configured to include instructions for said automatic control of said one or more user electronic systems. See Alexander et al. col. 31 lines 9-14 "At the viewer's option, the EPG and Profile Program use the basic viewer profile data, the simple statistics collected about a particular viewer, Viewer Preferences and Viewer Characteristics to perform automatic surfing. At the viewer's option, auto surfing can be performed during real-time advertising telecasts."

21. As for **Claim 25**, Darbee et al. teach said user electronic systems includes a television. See Darbee et al. col. 2 lines 46-49 "the present invention is directed to a remote control unit having the ability to control a selection of both **television** and internet content for depiction on an associated monitor or other display."

22. As for **Claim 26**, the limitations of Claim 26 fall within the limitations of Claim 16. Claim 26 is analyzed and rejected as shown with regards to Claim 16.

23. As for **Claim 27**, the limitations of Claim 27 fall within the limitations of Claim 17. Claim 27 is analyzed and rejected as shown with regards to Claim 17.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Allport (U.S. Patent # 6,104,334) teaches a system and method for displaying advertisements and program information wherein advertisements can be customized by the user's location.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirubel Aklilu whose telephone number is 571-272-7342. The examiner can normally be reached on 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelly can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER